

# The Burger Court Opinion Writing Database

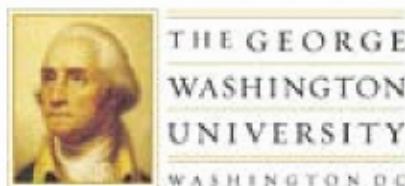
*Sanks v. Georgia*

401 U.S. 144 (February 23, 1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

February 8, 1971

Re: No. 28 - Sanks v. Georgia

Dear John:

Please join me in your opinion for  
dismissal.

Regards,

*WEB*  
WEB

Mr. Justice Harlan

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HUGO L. BLACK

February 8, 1971

Dear John:

No. 28 - Sanks v. Georgia

Please add the following at the end of your opinion in the above case:

"MR. JUSTICE BLACK concurs in the judgment of the Court dismissing this appeal but does so specifically on the ground that the case is now moot."

Sincerely,



H. L. B.

Mr. Justice Harlan

cc: Members of the Conference

February second  
1971

Dear John:

In No. 28 -- Sanks v. Georgia,  
please join me in your circulation  
of February 1, 1971.

William O. Douglas

Mr. Justice Harlan

My letter of January 26, 1971, to you and to the other Associate Justices of the Supreme Court of the United States, concerning the recent decision of the Supreme Court of Georgia in Sanks v. Georgia, No. 28, is herewith enclosed. I would appreciate your circulating this letter to your colleagues in the Supreme Court of the United States. I would also appreciate your circulating this letter to the Supreme Court of the State of Georgia.

Very truly yours, William O. Douglas

WD

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

3rd DRAFT

From: Harlan, J.

~~Recirculated~~ FEB 11 1971

SUPREME COURT OF THE UNITED STATES

No. 28.—OCTOBER TERM, 1970

Recirculated:

Lelia Mae Sanks et al.,  
Appellants, } On Appeal From the Supreme  
v. } Court of Georgia.  
State of Georgia et al.

[February —, 1971]

MR. JUSTICE HARLAN delivered the opinion of the Court.

We noted probable jurisdiction in this case, 395 U. S. 974 (1969), because the judgment of the Georgia Supreme Court appeared to raise substantial questions under the Fourteenth Amendment that were deserving of our plenary consideration, and because whatever conclusion this Court might reach with respect to them would definitively settle this aspect of the litigation. In brief, the Georgia Supreme Court upheld, over due process and equal protection challenges, a state statutory scheme that compelled appellants, both indigent persons who sought to contest landlord petitions for summary eviction from their homes, to post, as a condition precedent to offering any defense to summary eviction, a surety bond in double the potential amount of rent due at the end of trial. The statutes, this aspect of which was also upheld by the Georgia Supreme Court, provided further that the landlords would become entitled to such double rent should the tenant-appellants lose their cases.

The case was first heard by us at the 1969 Term, and was thereafter set for reargument at the present Term. 399 U. S. 922 (1970). At reargument it became apparent that events occurring subsequent to our notation of

STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES: 9

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

4th DRAFT

SUPREME COURT OF THE UNITED STATES Harlan, J.

No. 28.—OCTOBER TERM, 1970

Circulated:

FEB 9 1971

Recirculated:

Lelia Mae Sanks et al.,  
Appellants,  
v.  
State of Georgia et al. } On Appeal From the Supreme  
Court of Georgia.

[February —, 1971]

MR. JUSTICE HARLAN delivered the opinion of the Court.

We noted probable jurisdiction in this case, 395 U. S. 974 (1969), because the judgment of the Georgia Supreme Court appeared to raise substantial questions under the Fourteenth Amendment that were deserving of our plenary consideration, and because whatever conclusion this Court might reach with respect to them would definitively settle this aspect of the litigation. In brief, the Georgia Supreme Court upheld, over due process and equal protection challenges, a state statutory scheme that compelled appellants, both indigent persons who sought to contest landlord petitions for summary eviction from their homes, to post, as a condition precedent to offering any defense to summary eviction, a surety bond in double the potential amount of rent due at the end of trial. The statutes, this aspect of which was also upheld by the Georgia Supreme Court, provided further that the landlords would become entitled to such double rent should the tenant-appellants lose their cases.

The case was first heard by us at the 1969 Term, and was thereafter set for reargument at the present Term. 399 U. S. 922 (1970). At reargument it became apparent that events occurring subsequent to our notation of

March 25, 1971

**MEMORANDUM TO THE CONFERENCE**

*28* *27*  
**Re: Cases held for Banks and Boddie - Conference List p. 9**

Dear Brethren:

I thought the Conference might wish to have my views as to what should be done with the above cases.

My view is that all of the cases should be denied, or dismissed and denied as the case may be, with the exception of the following three cases:

No. 5050 - Frederick v. Schwartz -- I would remand this case for further consideration in light of Boddie. *W.C.*

No. 6158 - Lindsey v. Norment -- I would note this case. *S.M.C.*

No. 5067 - Sloatman v. Gibbons -- I would vacate and remand this case in light of Boddie. *AGC*

Sincerely,

J. M. H.

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

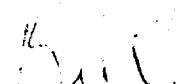
February 3, 1971

RE: No. 28 - Sanks v. Georgia

Dear John:

I agree.

Sincerely,

  
W.J.B. Jr.

Mr. Justice Harlan

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

February 2, 1971

Re: No. 28, Sanks v. Georgia

Dear John:

I am glad to join your opinion for the Court in this  
case.

Sincerely yours,

  
P. S.

Mr. Justice Harlan

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

February 10, 1971

Re: No. 28 - Sanks v. Georgia

Dear John:

Please join me.

Sincerely,



Mr. Justice Harlan

Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

February 3, 1971

No. 28 - Sanks v. Georgia

Dear John:

Please join me.

Sincerely,

  
T.M.

Mr. Justice Harlan

cc: The Conference

February 8, 1971

Re: No. 28 - Sanks v. Georgia

Dear John:

Please join me,

Sincerely,

H. A. B.

Mr. Justice Harlan

cc: The Conference